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SPECTRUM ENFORCEMENT
DIVISION

NATIONAL EMERGENCY NUMBER ASSOCIATION

2005 JAN -4 P 3:11

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NOV 16 2004

FCC - MAILROOM

November 4, 2004

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: WC Docket 04-36

Dear Mr. Chairman:

We understand that the Commission may soon consider whether to define Voice over Internet Protocol ("VoIP") as an interstate service, not subject to state fees or regulation. We urge the Commission not to take such action to the extent that it could undermine the provision of 9-1-1 services throughout the nation.

Most Public Safety Answering Points ("PSAPs") are funded in large part by "9-1-1 fees" charged to telephone subscribers pursuant to state law. States must retain authority to impose fees on all telephone services that provide 9-1-1 service. Excluding the growing number of VoIP users from 9-1-1 fees would allow them a "free ride" and place an unfair burden on more traditional telephone service customers. This would occur at exactly the wrong time, when PSAPs are struggling to adapt their systems and procedures to accommodate 9-1-1 calls from VoIP and other new services.

Some states have also adopted rules to require that certain VoIP providers offer Enhanced 9-1-1 ("E9-1-1") capability. The FCC should not pre-empt such regulations, especially to the extent that the Commission itself does not adopt nationwide VoIP/E9-1-1 rules. While effective national regulation to ensure VoIP/E9-1-1 capability

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may be preferable to inconsistent state regulation, states should not be prevented from taking innovative steps to protect their citizens in the absence of federal action. Rather than pre-empt states, the Commission should use this opportunity to take the lead and adopt meaningful rules to insure that all interconnected VoIP services provide full E9-1-1 capability.

Respectfully submitted,



Deborah Hines

President

North Carolina Chapter

National Emergency Number Association

cc: Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein



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President

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President

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Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein

SPECTRUM ENFORCEMENT
DIVISION

Before the
Federal Communications Commission
2005 JAN -4 P 3:44 Washington, D.C. 20554

RECEIVED & INSPECTED
DEC 20 2004
FCC - MAILROOM

In the Matter of
Form 601 Applications of:

AMTS Consortium, LLC
Kurian, Thomas K.
Paging Systems, Inc.
Telesaurus-VPC, LLC

)
)
)
) File No. 0001889684
) File No. 0001885949
) File No. 0001883916
) File No. 0001889668

To: Office of the Secretary
Attention: Chief, Wireless Telecommunications Bureau

Response to Reply to Opposition

Warren C. Havens ("Havens"), AMTS Consortium, LLC ("ACL") and Telesaurus-VPC, LLC ("TVL") (together the "Petitioners") submit this Response (the "Response") to the Reply filed by Paging Systems, Inc. ("PSI") on December 7, 2004 (the "Reply") to the Petitioners' Opposition to the PSI Petition for Reconsideration filed in this proceeding (the "Opposition"). Petitioners are filing this Response with a Request for Leave to File for reasons given therein and evident below.

The Reply¹ is simply false and deliberately misleading in now denying, as the Opposition's pointed out, *PSI's past written admission* that Commission's Rules did not prohibit commonly-controlled entities in spectrum auctions including No. 57 (which admission, by itself, renders its subject Petition for Reconsideration blatantly frivolous).

PSI's Petition for Reconsideration at page 6 admits:

¹ The Reply contains no declaration pursuant to 1.2108(c). The attorneys of PSI apparently have officer status in PSI at least on a de facto basis. A review of the PSI FCC licenses' files contain numerous filings executed only by these attorneys that contain and turn upon alleged facts that could only be presented by officers of the licensee or applicant.

PSI agrees with the Division's observation in the September 15 Order that the current Auction Rules do not contain any per se prohibitions against the participation in spectrum auctions by commonly controlled entities.

The Reply is further plainly false and misleading in asserting, *again blatantly contrary PSI's own clear written admissions* before the FCC, that the Opposition made false statements concerning rule violations by PSI to maintain its incumbent Great Lakes licenses. The Opposition referred to Petitioners' Petition to Deny PSI's Form 601 in Auction 57 which accurately pointed out PSI's written response to an FCC "audit" in which PSI admits that it did not construct various AMTS authorizations in violation of specific AMTS licensing rules and conditions (cited by Petitioners) that clearly required either timely construction and report of such, or turning in for cancellation the unconstructed authorization which had automatically terminated. This Petition to Deny was also entirely accurate in characterizing PSI's multiple applications, under oath of accuracy, to renew its Great Lakes AMTS station authorizations that PSI had, per these recent admissions, never constructed as untruthful.

FCC licensing and fair and effective competition among licensees rest upon truthful statements and rule compliance by licensees before the FCC. The FCC should enforce its rules in this regard, and impose stiff sanctions on PSI and its legal counsel.

(Execution on next page.)

Respectfully,

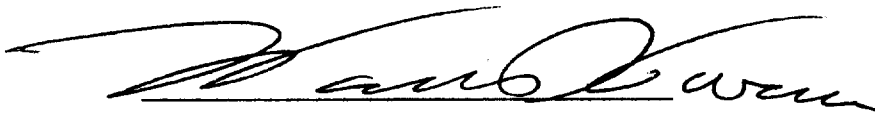
A handwritten signature in black ink, appearing to read "Warren Havens", with a stylized, flowing script.

**Warren Havens, Individually and as President of
AMTS Consortium, LLC
Telesaurus-VPC, LLC
2649 Benvenue Ave., Suites 3 & 2 (respectively)
Berkeley, CA 94704
Ph: 510-841-2220
Fx: 510-841-2226**

December 20, 2004

Declaration

I, Warren C. Havens, hereby declare, under penalty of perjury, that the foregoing Response was prepared pursuant to my direction and control and that all the factual statements and representations contained herein are true and correct.

A handwritten signature in black ink, appearing to read "Warren C. Havens", written over a horizontal line.

Warren C. Havens

December 20, 2004

Certificate of Service

I, Warren C. Havens, certify that I have, on this 20th of December 2004, caused to be served, via electronic mail (as permitted by Public Notice DA 04-3530), unless otherwise noted, a copy of the foregoing Response to the following:

Marlene H. Dortch, Secretary (via email to WTBSecretary@fcc.gov)
Office of the Secretary
Federal Communications Commission

Roberto Mussenden (via email to roberto.mussenden@fcc.gov)
Wireless Telecommunications Bureau
Federal Communications Commission

Margaret Wiener, Chief (via email to auction57@fcc.gov)
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau
Federal Communications Commission

Best Copy and Printing, Inc. (via email to fcc@bcpiweb.com)
(Commission's Copy Contractor)

Audrey P. Rasmussen (counsel to Paging Systems, Inc.)
Hall, Estill, Hardwick, Gable,
Golden & Nelson, P.C
1120 20th Street, N.W.
Suite 700, North Building
Washington, DC 20036-3406
(via email to arasmussen@hallestill.com and paper copy via USPS 1st-class mail)

Thomas K. Kurian (via USPS 1st-class mail)
4019 S. Industrial Road
Las Vegas, NV 89103

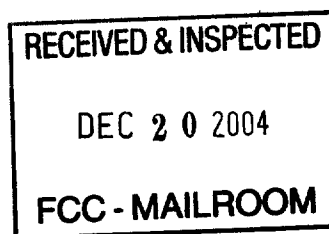
Kathleen A. Kaercher (via USPS 1st-class mail)
12154 Darnestown Road, Suite 333
North Potomac, MD 20878

Dennis C. Brown (via USPS 1st-class mail)
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406


Warren Havens

Denise Berger

From: wchavens@aol.com **SPECTRUM ENFORCEMENT DIVISION**
Sent: Monday, December 20, 2004 4:28 AM
To: WTBSecretary
Cc: Roberto Mussender; Auction 57; fcp@bcpiweb.com; arasmussen@hallestill.com; jstobaugh@telesatku.com; wchavens@aol.com
Subject: Response to Reply, and Request for Leave to File
See attached.



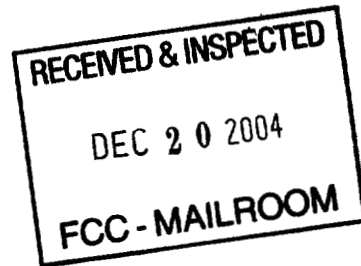
12/20/2004

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Form 601 Applications of:)	
)	
AMTS Consortium, LLC)	File No. 0001889684
Kurian, Thomas K.)	File No. 0001885949
Paging Systems, Inc.)	File No. 0001883916
Telesaurus-VPC, LLC)	File No. 0001889668

To: Office of the Secretary
Attention: Chief, Wireless Telecommunications Bureau

Request for Leave to File



Warren C. Havens ("Havens"), AMTS Consortium, LLC ("ACL") and Telesaurus-VPC, LLC ("TVL") (together the "Petitioners") hereby request leave to file the "Response to Reply" in the above-captioned matter submitted concurrently herewith (the "Response").

Petitioners submit the Response to succinctly demonstrate, with specific information in the Commission record previously filed by Paging Systems Inc. ("PSI"), certain false and misleading factual assertions subsequently made by in its Reply to Opposition filed on December 7, 2004 in this proceeding. These factual matters are essential to this proceeding.

This request should be granted since this specific demonstration will save Commission staff time in researching and resolving these essential matters, and since it is in the public interest to grant leave to address false assertions made in a Reply on essential matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Warren Havens", written in a cursive style.

**Warren Havens, Individually and as President of
AMTS Consortium, LLC
Telesaurus-VPC, LLC
2649 Benvenue Ave., Suites 3 & 2 (respectively)
Berkeley, CA 94704
Ph: 510-841-2220
Fx: 510-841-2226**

Date: December 20, 2004

Certificate of Service

I, Warren C. Havens, certify that I have, on this 20th of December 2004, caused to be served, via electronic mail (as permitted by Public Notice DA 04-3530), unless otherwise noted, a copy of the foregoing Request for Leave to File Response to the following:

Marlene H. Dortch, Secretary (via email to WTBSecretary@fcc.gov)
Office of the Secretary
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Roberto Mussenden (via email to roberto.mussenden@fcc.gov)
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Margaret Wiener, Chief (via email to auction57@fcc.gov)
Auctions and Spectrum Access Division
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Best Copy and Printing, Inc. (via email to fcc@bcpiweb.com)
(Commission's Copy Contractor)

Audrey P. Rasmussen (counsel to Paging Systems, Inc.)
Hall, Estill, Hardwick, Gable,
Golden & Nelson, P.C
1120 20th Street, N.W.
Suite 700, North Building
Washington, DC 20036-3406
(via email to arasmussen@hallestill.com and paper copy via USPS 1st-class mail)

Thomas K. Kurian (via USPS 1st-class mail)
4019 S. Industrial Road
Las Vegas, NV 89103

Kathleen A. Kaercher (via USPS 1st-class mail)
12154 Darnestown Road, Suite 333
North Potomac, MD 20878

Dennis C. Brown (via USPS 1st-class mail)
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406


Warren Havens

Pat. Sec.

SPECTRUM ENFORCEMENT
DIVISION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

In the Matter of)

MOBEX NETWORK SERVICES, INC.)

Application for Renewal of the License for)
AMTS Stations Along the Pacific Coast)

File No. 0001768691
Call Sign KAE889
(the "Pacific Coast License")

Marlene H. Dortch, Secretary
Federal Communications Commission

Attention: Chief, Wireless Telecommunications Bureau

KIM
CLP/ANGEL

RECEIVED

DEC - 6 2004

Federal Communications Commission
Office of Secretary

OPPOSITION TO SUPPLEMENT TO PETITION TO DENY

Mobex Network Services, LLC (Mobex), by its attorney, hereby respectfully files its Opposition to the supplement to petition to deny (Supplement) filed in the above captioned matter by Warren C. Havens (Havens), Telesaurus-VPC, LLC (TVL); AMTS Consortium, LLC (ACL); and Telesaurus Holdings GB, LLC (THL). In support of its position, Mobex shows the following.

The Commission's Rules do not authorize the filing of a supplement to a petition to deny, Fidelity Television, Inc., 11 FCC Rcd 6766 (1996), and the Commission has dismissed such unauthorized pleadings, *id.* Havens did not request leave to file his Supplement or to present any reason why it should be accepted. Accordingly, Havens's Supplement should be dismissed without consideration.

ORIGINAL

Havens attempted to introduce as parties persons which did not file timely petitions to deny Mobex's above captioned application. The Commission has no record of the timely filing of petitions to deny by TVL, ACL, or THL. Neither did Havens demonstrate in his Supplement that any of those persons has standing to be heard in the instant matter. Havens did not demonstrate that the public interest would be served in any way by hearing from any of those persons. Accordingly, none of those persons should be admitted to the above captioned proceeding. Because it cannot be ascertained which portions of Haven's filing were contributed by non-parties TVL, ACL, or THL so that those portions can be isolated and stricken, the Commission should dismiss the entire pleading as having been filed by unauthorized persons.

Havens's Supplement was based entirely on his incorporation by reference of unspecified documents which he suggests may be in the Commission's records. Havens failed to serve a copy of any of those purported documents on Mobex. Havens even admits that he believes that he has not seen some or all of the purported documents. If Havens has any such documents, he did not cite to any new fact contained therein to support his bald conclusions.

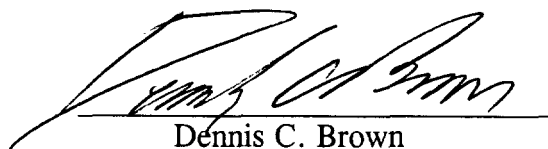
In the absence of any new material fact presented in Havens's Supplement, Mobex denies Havens's unsupported conclusions that Mobex engaged in lack of candor and deception in Commission licensing, and Mobex denies that it ever made any false statement to the Commission punishable under 18 U.S.C. §1001 or 47 U.S.C. §503. Mobex denies that its legal counsel ever violated 47 C.F.R. §§1.24(a)(2)-(4) in their representation of Mobex.

Havens abused the Commission's processes by his strike filing. Havens has filed a petition to deny Mobex's application for consent for transfer of control of Mobex, file number 0001885281. In his petition, Havens demanded that the Commission resolve all pending matters prior to acting on Mobex's transfer of control application. Havens presented no new material fact in his Supplement and explained no reason why he needed to file the vacuous pleading at this time. In view of the absence of any material fact in Havens's Supplement, and in view of the timing of its submission with respect to Havens's protest of Mobex's transfer of control application, the Commission should conclude that Havens's obvious purpose was not to supplement the record in the above captioned matter, but rather, to delay the Commission's grant of consent to transfer of control of Mobex. The Commission should not tolerate such a strike filing.

Conclusion

For all the foregoing reasons, the Commission should dismiss or deny Havens's Supplement and grant renewal of the license for station KAE889 and should take appropriate action against Havens's filing of a strike pleading.

Respectfully submitted,
MOBEX NETWORK SERVICES, LLC

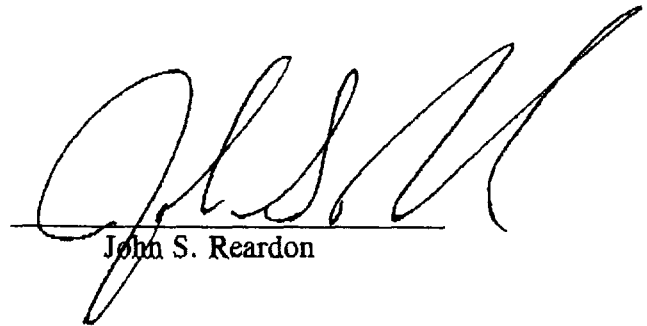
A handwritten signature in black ink, appearing to read "Dennis C. Brown", is written over a horizontal line.

8124 Cooke Court, Suite 201
Manassas, Virginia 20109-7406
703/365-9436

Dated: December 6, 2004

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct. Executed on
December 6, 2004.



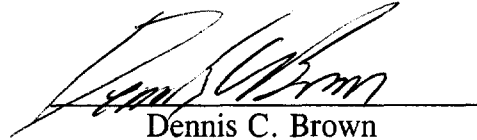
John S. Reardon

CERTIFICATE OF SERVICE

I hereby certify that on this sixth day of December, 2004, I served a copy of the foregoing Opposition to Supplement to Petition to Deny on the following person by placing a copy in the United States Mail, first-class postage prepaid:

Warren C. Havens
2649 Benvenue Avenue, Suite 2
Berkeley, California 94704

Warren C. Havens
2649 Benvenue Avenue, Suite 3
Berkeley, California 94704



Dennis C. Brown

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
MOBEX NETWORK SERVICES, INC.)	
)	File No. 0001768691
Application for Renewal of the License for)	Call Sign KAE889
AMTS Stations Along the Pacific Coast)	(the "Pacific Coast License")

Marlene H. Dortch, Secretary
Federal Communications Commission

Attention: Chief, Wireless Telecommunications Bureau

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Office of Secretary

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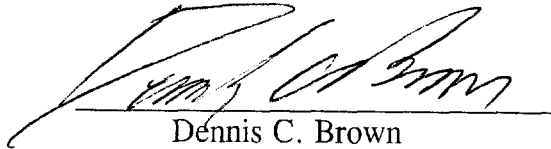
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Dennis C. Brown

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Manassas, Virginia 20109-7406
703/365-9436

Dated: December 6, 2004